

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LONTEX CORPORATION

Plaintiff,

v.

NIKE, INC.,

Defendant.

Civil Action No. 2:18-cv-05623-MMB

Hon. Michael M. Baylson

**CORRECTED DECLARATION OF BEN L. WAGNER IN SUPPORT OF PLAINTIFF
LONTEX CORPORATION'S BILL OF COSTS PURSUANT TO U.S.C. § 1924**

I, Ben L. Wagner, declare as follows:

1. I am a member of the State Bar of California in good standing, and admitted *pro hac vice* in this proceeding. I am a partner at Troutman Pepper Hamilton Sanders LLP, counsel of record in this action for Plaintiff Lontex Corporation (“Lontex”). Each statement made in this declaration is based upon facts within my personal knowledge or which I reasonably believe to be true on the basis of my information and belief. If called as a witness in this action I could and would testify competently to the same.

2. I submit this declaration in support of Lontex’s Bill of Costs.

3. In the above-captioned case, Lontex asserted claims for trademark infringement. Nike, Inc. (“Nike”) asserted counterclaims for declaratory relief, cancellation, and abandonment.

4. The Court held a jury trial, overseen by Judge Baylson, which commenced on October 18, 2021, and concluded on October 29, 2021.

5. The parties delivered their closing statements to the jury on October 28, 2021.

6. The Court entered judgment in favor of Lontex and against Nike. Dkt. No. 364.

7. I have reviewed the costs claimed in this application and believe that they are allowable by law, are correctly stated and were actually and necessarily incurred. Included with this declaration are true and correct copies of invoices or other records that correspond to the costs claimed.

8. Lontex’s Bill of Costs totals \$80,190.93.

9. Attached as **Exhibit A** are true and correct copies of invoices for fees of the clerk, taxable under 28 USCS § 1920(1).

EXHIBIT A. FEES OF THE CLERK			
Date	Docket No.	Description	Total Costs
12/31/2018	1	COMPLAINT against NIKE, INC. (Receipt No. PPE190092)	\$400.00
1/30/2019	10	APPLICATION for Admission Pro Hac Vice of Andrew D. Skale (Receipt No. 0313-13318756)	\$40.00
1/30/2019	11	APPLICATION for Admission Pro Hac Vice of Ben Wagner (Receipt No. 0313-13318807)	\$40.00
6/18/2019	39	MOTION for Pro Hac Vice of Craig C. Crockett	\$40.00
8/14/2019	49	MOTION for Pro Hac Vice of Katherine Harihar (Receipt No. 0313-13732864)	\$40.00
REQUESTED SUBTOTAL COST(S):			\$560.00

10. Attached as **Exhibit B** are true and correct copies of invoices for printed or electronically recorded transcripts, taxable under 28 USCS § 1920(2). These are the costs of such transcripts paid by Lontex (and do not include the costs of such transcripts paid by Nike). These transcripts were necessary for trial in this case and were used to prepare witnesses and to prepare for the presentation of evidence. These transcripts were not obtained solely for the convenience of counsel. These transcripts include deposition transcripts for the following witnesses who testified live at trial and whose depositions were used at trial or were otherwise reasonably necessary to the parties at the time they were taken: Doctor Brian Cammarota (fact witness), Howard Knudson (fact witness), Efraim Nathan (fact and 30(b)(6) witness), Samantha Nathan (fact and 30(b)(6) witness), Forbes Campbell (fact and 30(b)(6) witness), Katie Bromert (fact and 30(b)(6) witness), Neil Munro (fact and 30(b)(6) witness), Benjamin Bechtel (fact witness), Christopher J. Williams (fact witness), Najeeb Hosni (fact witness), Nicholas Johnson (fact and 30(b)(6) witness), Kate Schrader (fact witness), Norman Lehrer (fact witness), Vicki Humphreys (fact witness), Susan McDonald (expert witness), Hal Poret (expert witness), Parker Mangum (fact and 30(b)(6) witness), Deborah Anne White (fact and 30(b)(6) witness), Jeff Anderson (expert witness), Kimberly Mack Ireland (fact and 30(b)(6) witness), Paul Meyer

(expert witness), Shannon Hall (fact and 30(b)(6) witness), Keith Dugger (fact witness), Sean Cunningham (fact witness).

EXHIBIT B. FEES FOR PRINTED OR ELECTRONICALLY RECORDED TRANSCRIPTS NECESSARILY OBTAINED FOR USE IN THE CASE					
Invoice Date	Deponent/Hearing	Date of Depo/Hearing	Court Reporter	Invoice No.	Amount
09/05/19	Cammarota, Doctor Brian	8/16/2019	Veritext	SF3932847	\$1,203.75
10/24/19	Knudson, Howard	10/2/2019	Veritext	SF4001230	\$1,019.85
11/15/19	Nathan, Efraim	10/25/2019	Veritext	NY4034149	\$3,275.47
11/15/19	Nathan, Samantha	10/24/2019	Veritext	NY4031270	\$3,069.83
11/29/19	Campbell, Forbes	11/22/2019	Aptus	1065548	\$2,829.47
12/04/19	Court reporter fee split for coverage of Motion to Compel argument	11/25/2019	Veritext	NY4069460	\$754.50
12/04/19	Nathan, Efraim, Vol. 2	11/14/2019	Veritext	NY4067419	\$4,030.18
12/24/19	Bromert, Katie	12/17/2019	Aptus	1066728	\$2,090.91
12/27/19	Munro, Neil	12/12/2019	Aptus	1066640	\$4,554.87
01/30/20	Bechtel, Benjamin (transcript)	1/10/2020	Veritext	NY4164653	\$1,856.15
02/06/20	Williams, Christopher J.	1/23/2020	Veritext	NY4172240	\$952.55
02/07/20	Bechtel, Benjamin (video)	1/10/2020	Veritext	NY4179407	\$424.94
02/12/20	Hosni, Najeeb	1/24/2020	Veritext	NY4183868	\$1,082.98
02/28/20	Johnson, Nicholas		Aptus	1070444	\$3,707.76
02/28/20	Schrader, Kate	2/21/2020	Aptus	1069968	\$1,292.84
03/17/20	Lehrer, Norman	2/19/2020	Veritext	NY4254292	\$916.70
03/31/20	Humphreys, Vicki	3/10/2020	Aptus	1070549	\$2,032.05
05/25/20	Court reporter fees for transcript of proceedings	5/14/2020	Suzanne Rita White, CM, FCRR	20201090	\$73.00
08/31/20	McDonald, Susan	8/14/2020	Veritext	NY4509381	\$1,542.60
08/31/20	Poret, Hal	8/11/2020	Aptus	1073726	\$1,998.95
09/25/20	Mangum, Parker	9/4/2020	Aptus	1074428	\$1,653.05
09/29/20	White, Deborah Anne	8/14/2020	Aptus	1074945	\$2,229.89
09/30/20	Anderson, Jeff		Aptus	1075094	\$2,809.84
09/30/20	Mack Ireland, Kimberly	8/26/2020	Aptus	1075099	\$1,539.35
09/30/20	Meyer, Paul	9/15/2020	Aptus	1074478	\$2,562.69
10/30/20	Hall, Shannon	10/23/2020	Aptus	1075980	\$2,016.77
02/03/21	Reporter's Transcript of	2/2/2021	Lynn	20200098	\$246.50

EXHIBIT B. FEES FOR PRINTED OR ELECTRONICALLY RECORDED TRANSCRIPTS NECESSARILY OBTAINED FOR USE IN THE CASE					
Invoice Date	Deponent/Hearing	Date of Depo/Hearing	Court Reporter	Invoice No.	Amount
	MSJ Hearing		Gligor, RMR		
04/22/21	Reporter's Transcript of Status Conference	4/21/2021	Access Transcripts	8501	\$41.40
07/30/21	Dugger, Keith	7/20/2021	Aptus	1089401	\$1,838.94
08/20/21	Reporter's Transcript of Motion Hearing (Cool Compression, MILs, Deposition Designations)	8/19/2021	J&J Court Transcribers	2021-01187	\$199.65
08/31/21	Cunningham, Sean	8/25/2021	Aptus	1090930	\$1,904.80
10/20/21	Partial Day 1 Trial Transcript - Opening Statement by Mr. Hynes	10/18/2021	Shannan Gagliardi	192	\$17.10
11/11/21	Trial Transcripts	10/18-10/29/2021	Shannan Gagliardi	196	\$1,845.00
REQUESTED SUBTOTAL COSTS:					\$57,614.33

11. Attached as **Exhibit C** are true and correct copies of receipts for the witness fees, subsistence and mileage fees list in the attachment to the Bill of Costs and paid pursuant to 28 U.S.C. § 1821.

12. Attached as **Exhibit D** are true and correct copies of invoices for exemplification and copies of papers necessarily obtained for use in this case, and taxable under 28 U.S.C.S. § 1920(4). I declare that the following entry from The MCS Group, Inc. is for the preparation of demonstratives for use during trial relating to Lontex's claims.

EXHIBIT D. FEES FOR EXEMPLIFICATION AND COPIES OF PAPERS NECESSARILY OBTAINED FOR USE IN THE CASE				
Date	Vendor	Description	Invoice No.	Total Costs
9/21/21	Clerk Of Court (CASD)	14cv00872-JAH / Lights Out certified copies	14cv00872-JAH	\$472.00
10/26/21	The MCS Group, Inc.	Exhibit Boards for Trial	07382001	\$1,944.00
11/08/21	Veritext	Transcript of Doctor Brian	5379127	\$95.00

		Cammarota- Certified hard copy ordered for trial 10/5/21		
11/08/21	Veritext	Transcript of Deposition of Howard Knudson, MSPT – Certified hard copy ordered 10/5/21	5379132	\$95.00
REQUESTED SUBTOTAL COST(S):				\$2,606.00

13. Attached as **Exhibit E** are true and correct copies of invoices for fees and disbursements for printing as listed below, and taxable under 28 USCS § 1920(4).

EXHIBIT E. FEES AND DISBURSEMENTS FOR PRINTING				
Date	Vendor	Description	Invoice No.	Total Costs
6/30/19	Epiq eDiscovery	Scanning documents to TIFF (electronic copies) for production	90347426	\$1,331.68
6/30/19	Epiq eDiscovery	Scanning documents to TIFF (electronic copies) for production	90347424	\$1,206.32
1/14-2/14/19	Mintz Levin	Fees for printing billed by former counsel (See Exhibit E-1)		\$270.45
7/31/19	Epiq eDiscovery	Scanning and OCR re production of documents	90355859	\$91.11
11/30/19	Epiq eDiscovery	Digital Prints (Blowbacks) - B&W-Oversized	90392431	\$147.02
11/30/19	Epiq eDiscovery	Digital Prints (Blowbacks) Color-Oversized	90392434	\$91.48
2/25/20	eMerge	Prepare Documents for Production	2216682	\$600.00
3/11/20	eMerge	Prepare Documents for Production	2222020	\$200.00
4/9/20	eMerge	Prepare Documents for Production	2231746	\$100.00
5/7/20	eMerge	Prepare Documents for Production	2243662	\$200.00
6/9/20	eMerge	Prepare Documents for Production	2255002	\$100.00
7/22/20	eMerge	Prepare Documents for Production	30008542	\$100.00
7/31/20	Nationwide Legal	Printing cost for courtesy copies for Judge Baylson	00000019642	\$87.50
10/8/21	Reliable Philadelphia	Reliable Copy invoice for electronic bates numbering and printing	PH223224	\$1,726.33
10/16/20	eMerge	Prepare Documents for Production	30050642	\$100.00
5/18/21	eMerge	Prepare Documents for Production	30159447	\$100.00
11/10/21	eMerge	Prepare Documents for Production	30063577	\$300.00
REQUESTED SUBTOTAL COST(S):				\$6,751.89

14. Attached as **Exhibit F** are true and correct copies of the invoices and receipts listed below for other travel-related costs and disbursements for witnesses, taxable under 28 USCS § 1920(3).

EXHIBIT F. TRAVEL-RELATED COSTS AND DISBURSEMENTS FOR WITNESSES				
Date	Witness	Description	Category	Total Costs
10/01/21	Brian Ball	Roundtrip Airfare 10/17-10/19/21	Airfare	\$380.80
10/07/21	Brian Ball	Change Fee for travel 10/24-10/26/21	Airfare	\$183.00
10/18/21	Brian Ball	Change Fee for travel 10/20-10/22/21	Airfare	\$116.00
10/20/21	Brian Ball	Hotel 10/20-10/21/21	Hotel	\$546.59
11/01/21	David Drews	Roundtrip Airfare SAN to PHL on 10/20/21	Airfare	\$1,586.80
11/01/21	David Drews	Uber (Airport to Hotel)	Cab/Uber	\$27.95
11/01/21	David Drews	Uber (Hotel to Courthouse)	Cab/Uber	\$11.37
11/01/21	David Drews	Uber (Courthouse to Hotel)	Cab/Uber	\$11.37
11/01/21	David Drews	Hilton Logan - 10/24-10/28/21	Hotel	\$1,021.72
11/01/21	David Drews	Uber (Courthouse to Hotel)	Cab/Uber	\$11.68
11/01/21	David Drews	Uber (Hotel to Courthouse)	Cab/Uber	\$11.39
11/01/21	David Drews	Uber (Airport to Courthouse)	Cab/Uber	\$31.68
11/01/21	David Drews	Uber (Courthouse to Hotel)	Cab/Uber	\$8.85
11/01/21	David Drews	Uber (Hotel to Airport)	Cab/Uber	\$38.22
11/02/21	David Drews	Trip Insurance Expense - Allianz Travel	Trip Insurance	\$109.81
11/03/21	David Drews	Hilton Logan - 10/20/21	Hotel	\$232.74
11/04/21	David Drews	Uber (Home to Airport)	Cab/Uber	\$40.29
11/05/21	David Drews	Roundtrip Airfare SAN to PHL on 10/24/21	Airfare	\$780.61
11/01/21	Dominique Williams	Courthouse Parking	Parking	\$29.00
10/19/21	Jeff Parkhurst	Roundtrip Airfare to/from PHL	Airfare	\$498.80
10/19/21	Jeff Parkhurst	Cab (Airport to Hotel)	Cab/Uber	\$36.40
10/22/21	Jeff Parkhurst	Cab (Hotel to Airport)	Cab/Uber	\$37.40
10/25/21	Jeff Parkhurst	Hotel 10/25-10/28/21	Hotel	\$698.22
10/25/21	Jeff Parkhurst	One-way Airfare to PHL	Airfare	\$288.40
10/25/21	Jeff Parkhurst	One-way Airfare to PHL - Change Fee	Airfare	\$210.00
10/25/21	Jeff Parkhurst	Cab (Home to Airport)	Cab/Uber	\$113.00
10/25/21	Jeff Parkhurst	Cab (Airport to Hotel)	Cab/Uber	\$36.75

EXHIBIT F. TRAVEL-RELATED COSTS AND DISBURSEMENTS FOR WITNESSES				
Date	Witness	Description	Category	Total Costs
10/26/21	Jeff Parkhurst	Cab (Hotel to Courthouse)	Cab/Uber	\$11.10
10/26/21	Jeff Parkhurst	Cab (Courthouse to Hotel)	Cab/Uber	\$10.90
10/27/21	Jeff Parkhurst	Cab (Hotel to Courthouse)	Cab/Uber	\$12.35
10/28/21	Jeff Parkhurst	Hilton Logan 10/25-10/28/21	Hotel	\$698.22
10/28/21	Jeff Parkhurst	One-way Airfare to MSP	Airfare	\$528.40
10/08/21	Jodi Thomas	Roundtrip Airfare to/from PHL (Invoice 0002853)	Airfare	\$708.80
10/18/21	Jodi Thomas	Roundtrip Airfare - Change Fee (Invoice 0004901)	Airfare	\$169.01
10/19/21	Jodi Thomas	Hotel 10/19-10/22/21	Hotel	\$834.36
09/30/21	Kenisha Likely	One-way Airfare to PHL 10/16/2021 (Invoice 0000999)	Airfare	\$267.82
09/30/21	Kenisha Likely	One-way Airfare to NC 10/18/2021 (Invoice 0001001)	Airfare	\$117.40
09/30/21	Kenisha Likely	One-way Airfare to PHL on 10/17/2021 – Change Fee (Invoice 0001025)	Airfare	\$470.28
09/30/21	Kenisha Likely	One-way Airfare to NC on 10/19/21 – Change Fee (Invoice 001028)	Airfare	\$117.40
10/18/21	Kenisha Likely	Hotel 10/17-10/19/21	Hotel	\$508.53
REQUESTED SUBTOTAL COST(S):				\$11,553.41

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 12, 2021.

/s/ Ben L. Wagner

Ben L. Wagner

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2021, a true and correct copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent via e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Ben L. Wagner

Ben L. Wagner